

State of Wisconsin



1997 Assembly Bill 671

Date of enactment: **April 27, 1998**
Date of publication*: **May 11, 1998**

1997 WISCONSIN ACT 187

AN ACT *to amend* 66.05 (8) (b) 1., 66.411, 102.23 (1) (c), 102.835 (14), 108.225 (14), 125.12 (2) (d), 801.02 (1), 801.02 (2), 801.09 (2) (a), 801.09 (2) (b), 801.095 (1), 801.095 (2), 801.095 (3), 801.095 (4), 801.15 (2) (a), 802.06 (1), 802.06 (6), 802.09 (1), 893.02, 961.555 (2) (a) and 973.076 (2) (a) of the statutes; **relating to:** increasing the time to serve a summons and complaint and a responsive pleading.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.05 (8) (b) 1. of the statutes is amended to read:

66.05 (8) (b) 1. If an owner fails to remedy or improve the defect in accordance with the written notice furnished by the building inspector or other designated officer under par. (am) within the 30-day period specified in the written notice, the building inspector or other designated officer shall apply to the circuit court of the county in which the building is located for an order determining that the building constitutes a public nuisance. As a part of the application for such order from the circuit court the building inspector or other designated officer shall file a verified petition which recites the giving of such written notice, the defect or defects in such building, the owner's failure to comply with the notice and such other pertinent facts as may be related thereto. A copy of the petition shall be served upon the owner of record or the owner's agent if an agent is in charge of the building and upon the holder of any encumbrance of record under sub. (1m) (a) and the owner shall have ~~20~~ 45 days following service upon the owner in which to reply to such petition. Upon application by the building inspector or other

designated officer the circuit court shall set promptly the petition for hearing. Testimony shall be taken by the circuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence with respect to the petition and the answer determines that the building constitutes a public nuisance, the court shall issue promptly an order directing the owner of the building to remedy the defect and to make such repairs and alterations as may be required. The court shall set a reasonable period of time in which the defect shall be remedied and the repairs or alterations completed. A copy of the order shall be served upon the owner as provided in sub. (1m) (a). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, the court will appoint a receiver or authorize the building inspector or other designated officer to proceed to raze and remove the building and restore the site to a dust-free and erosion-free condition under par. (bg).

SECTION 2. 66.411 of the statutes is amended to read:

66.411 Urban redevelopment; enforcement of duties. Whenever a redevelopment corporation shall not have substantially complied with the development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by ss. 66.405 to 66.425, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission to the city attorney of the city, who may thereupon commence a proceeding in the circuit court of the county in which the city is in whole or in part situated in the name of the city for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceeding shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding 20 45 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court, shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

SECTION 3. 102.23 (1) (c) of the statutes is amended to read:

102.23 (1) (c) The commission shall serve its answer within 20 45 days after the service of the complaint, and, within the like time, the adverse party may serve an answer to the complaint, which answer may, by way of counterclaim or cross complaint, ask for the review of the order or award referred to in the complaint, with the same effect as if the party had commenced a separate action for the review thereof.

SECTION 4. 102.835 (14) of the statutes is amended to read:

102.835 (14) ANSWER BY 3RD PARTY. Within 20 45 days after the service of the levy upon a 3rd party, the 3rd party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the uninsured employer, including a description of the property or the rights to property and the nature and dollar amount of any such obligation.

SECTION 5. 108.225 (14) of the statutes is amended to read:

108.225 (14) ANSWER BY 3RD PARTY. Within 20 45 days after the service of the levy upon a 3rd party, the 3rd

party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the debtor, including a description of the property or the rights to property and the nature and dollar amount of any such obligation.

SECTION 6. 125.12 (2) (d) of the statutes is amended to read:

125.12 (2) (d) *Judicial review.* The action of any municipal governing body in granting or failing to grant, suspending or revoking any license, or the failure of any municipal governing body to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the municipality. The procedure on review shall be the same as in civil actions instituted in the circuit court. The person desiring review shall file pleadings, which shall be served on the municipal governing body in the manner provided in ch. 801 for service in civil actions and a copy of the pleadings shall be served on the applicant or licensee. The municipal governing body, applicant or licensee shall have 20 45 days to file an answer to the complaint. Following filing of the answer, the matter shall be deemed at issue and hearing may be had within 5 days, upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed within 10 days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

SECTION 7. 801.02 (1) of the statutes is amended to read:

801.02 (1) A civil action in which a personal judgment is sought is commenced as to any defendant when a summons and a complaint naming the person as defendant are filed with the court, provided service of an authenticated copy of the summons and of the complaint is made upon the defendant under this chapter within 60 90 days after filing.

SECTION 8. 801.02 (2) of the statutes is amended to read:

801.02 (2) A civil action in which only an in rem or quasi in rem judgment is sought is commenced as to any defendant when a summons and a complaint are filed with the court, provided service of an authenticated copy of the summons and of either the complaint or a notice of object of action under s. 801.12 is made upon the defendant under this chapter within 60 90 days after filing.

SECTION 9. 801.09 (2) (a) of the statutes is amended to read:

801.09 (2) (a) Within ~~20 days, or within 45 days if the defendant is the state or an officer, agent, employee or~~

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agency of the state in an action or special proceeding brought within the purview of s. 893.82 or 895.46, exclusive of the day of service, after the summons has been served personally upon the defendant or served by substitution personally upon another authorized to accept service of the summons for the defendant; or

SECTION 10. 801.09 (2) (b) of the statutes is amended to read:

801.09 (2) (b) Within 40 45 days after a date stated in the summons, exclusive of such date, if no such personal or substituted personal service has been made, and service is made by publication. The date so stated in the summons shall be the date of the first required publication.

SECTION 11. 801.095 (1) of the statutes is amended to read:

801.095 (1) PERSONAL SERVICE; COMPLAINT ATTACHED.

STATE OF WISCONSIN

CIRCUIT COURT: COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address

.... (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within ~~(20)~~ ~~(45)~~ 45 days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not provide a proper answer within ~~(20)~~ ~~(45)~~ 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, 19..

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

SECTION 12. 801.095 (2) of the statutes is amended to read:

801.095 (2) PERSONAL SERVICE; NO COMPLAINT ATTACHED.

STATE OF WISCONSIN

CIRCUIT COURT: COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address

.... (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you.

Within ~~(20)~~ ~~(45)~~ 45 days of receiving this summons, you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not demand a copy of the complaint within ~~(20)~~ ~~(45)~~ 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, 19..

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

SECTION 13. 801.095 (3) of the statutes is amended to read:

801.095 (3) NO PERSONAL SERVICE; COMPLAINT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT: COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address

.... (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is also served upon you, states the nature and basis of the legal action.

Within ~~40~~ 45 days after, 19.., you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not provide a proper answer within ~~40~~ 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, 19..

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

SECTION 14. 801.095 (4) of the statutes is amended to read:

801.095 (4) NO PERSONAL SERVICE; COMPLAINT NOT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT: COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address

.... (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you.

Within 40 45 days after, 19.., you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not demand a copy of the complaint within 40 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, 19..

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

SECTION 15. 801.15 (2) (a) of the statutes is amended to read:

801.15 (2) (a) When an act is required to be done at or within a specified time, the court may order the period enlarged but only on motion for cause shown and upon just terms. The ~~60~~ 90 day period under s. 801.02 may not

be enlarged. If the motion is made after the expiration of the specified time, it shall not be granted unless the court finds that the failure to act was the result of excusable neglect. The order of enlargement shall recite by its terms or by reference to an affidavit in the record the grounds for granting the motion.

SECTION 16. 802.06 (1) of the statutes is amended to read:

802.06 (1) **WHEN PRESENTED.** A defendant shall serve an answer within ~~20~~ 45 days after the service of the complaint upon the defendant. If a guardian ad litem is appointed for a defendant, the guardian ad litem shall have ~~20~~ 45 days after appointment to serve the answer. A party served with a pleading stating a cross-claim against the party shall serve an answer thereto within ~~20~~ 45 days after the service upon the party. The plaintiff shall serve a reply to a counterclaim in the answer within ~~20~~ 45 days after service of the answer. The state or an agency of the state or an officer, employee or agent of the state in an action brought within the purview of s. 893.82 or 895.46 shall serve an answer to the complaint or to a cross-claim or a reply to a counterclaim within 45 days after service of the pleading in which the claim is asserted. If any pleading is ordered by the court, it shall be served within ~~20~~ 45 days after service of the order, unless the order otherwise directs. The service of a motion permitted under sub. (2) alters these periods of time as follows, unless a different time is fixed by order of the court: if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action; or if the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

SECTION 17. 802.06 (6) of the statutes is amended to read:

802.06 (6) **MOTION TO STRIKE.** Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted upon motion made by a party within ~~20~~ 45 days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, scandalous or indecent matter.

SECTION 18. 802.09 (1) of the statutes is amended to read:

802.09 (1) **AMENDMENTS.** A party may amend the party's pleading once as a matter of course at any time within 6 months after the summons and complaint are filed or within the time set in a scheduling order under s. 802.10. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given at any stage of the action when justice so requires. A party shall plead in response to an amended pleading within ~~20~~ 45 days after service of the amended pleading unless (a) the court otherwise orders or (b) no responsive pleading is required or permitted under s. 802.01 (1).

SECTION 19. 893.02 of the statutes is amended to read:

893.02 Action, when commenced. An action is commenced, within the meaning of any provision of law which limits the time for the commencement of an action, as to each defendant, when the summons naming the defendant and the complaint are filed with the court, but no action shall be deemed commenced as to any defendant upon whom service of authenticated copies of the summons and complaint has not been made within ~~60~~ 90 days after filing.

SECTION 20. 961.555 (2) (a) of the statutes is amended to read:

961.555 (2) (a) The district attorney of the county within which the property was seized shall commence the forfeiture action within 30 days after the seizure of the property, except that the defendant may request that the forfeiture proceedings be adjourned until after adjudication of any charge concerning a crime which was the basis for the seizure of the property. The request shall be granted. The forfeiture action shall be commenced by filing a summons, complaint and affidavit of the person who seized the property with the clerk of circuit court, provided service of authenticated copies of those papers is made in accordance with ch. 801 within ~~60~~ 90 days after filing upon the person from whom the property was seized and upon any person known to have a bona fide perfected security interest in the property.

SECTION 21. 973.076 (2) (a) of the statutes is amended to read:

973.076 (2) (a) The district attorney of the county within which the property was seized or in which the defendant is convicted shall commence the forfeiture action within 30 days after the seizure of the property or the date of conviction, whichever is earlier, except that the defendant may request that the forfeiture proceedings be adjourned until after adjudication of any charge concerning a crime which was the basis for the seizure of the property. The request shall be granted. The forfeiture action shall be commenced by filing a summons, complaint and affidavit of the person who seized the property with the clerk of circuit court, provided service of authenticated copies of those papers is made in accordance with ch. 801 within ~~60~~ 90 days after filing upon the person from whom the property was seized and upon any person known to have a bona fide perfected security interest in the property.

SECTION 22. Initial applicability.

(1) This act first applies to actions commenced on the effective date of this subsection.